

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the
SOUTHERN CALIFORNIA WATER COMPANY
(U 133 W) for an order authorizing it to increase
rates for water service by \$15,377,000 or 19.34% in
2004; by \$6,642,000 or 6.98% in 2005; and by
\$6,629,700 or 6.51% in 2006 in its Metropolitan
Service Area.

Application 03-10-006
(Filed October 6, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION FOR INTERIM RATE RELIEF**

Summary

This ruling grants the motion of Southern California Water Company (SoCalWater), filed in connection with this Region II general rate case (GRC) application, for the interim rate relief permitted under Pub. Util. Code § 455.2.¹

Procedural Background

SoCalWater seeks authority for interim rate relief under § 455.2, by motion filed on December 23, 2003. The Office of Ratepayer Advocates (ORA), in a response filed on January 15, 2004 (with my permission), opposes SoCalWater's request. SoCalWater filed a reply (with my permission) on January 26, 2004.

¹ Unless otherwise indicated, all subsequent citations to sections refer to the Public Utilities Code.

Discussion

SoCalWater's Request

SoCalWater, a Class A water utility, seeks authority to file an advice letter, in connection with this Region II GRC proceeding, to implement interim rates pursuant to § 455.2. The statute, which became effective on January 1, 2003, requires the Commission to issue a final decision on a GRC application for a water corporation with more than 10,000 service connections (a Class A water utility) no later than the first day of the first test year in that rate case application. The statute provides that if the Commission does not issue a decision by that date, the Class A water utility may file a tariff that implements interim rates, subject to refund. The interim rates are to be calculated by adding the inflation rate to existing rates.

SoCalWater represents that it is entitled to implement interim rates because delays in the review of this GRC application have delayed the processing of the application and have caused the Commission to miss the January 2004 deadline for issuing a decision. The utility tendered its Notice of Intent (NOI) for this GRC on January 30, 2003, but the application was not filed until October 6. SoCalWater contends that the delays are the result of staffing shortages ORA has experienced because of budget constraints. As SoCalWater points out, under the current schedule, evidentiary hearings will not be held until March of this year, and the Commission's decision will follow sometime thereafter, well past the first day of the 2004 test year.

ORA opposes SoCalWater's request on several grounds.

Applicability of § 455.2

ORA argues, first, that § 455.2 does not apply to this GRC application, filed under the Commission's current rate case plan for water utilities,² because the Legislature intended the statute to apply only after the Commission adopted a new water rate case plan. D.03-10-072, a recent, unanimous Commission decision explicitly rejects this argument.³ Though D.03-10-072 recognizes that "[t]he Legislature found shortcomings in the 1990 water rate case plan when it enacted Section 455.2" and accordingly directed the Commission to revise the rate case plan, the Legislature did not make such revisions a condition precedent to interim rate authority. (D.03-10-072, at p. 7.) The Commission explained:

While ORA argues that Section 455.2 cannot be applied until the Commission approves a new water rate case plan, the statute does not contain such a threshold condition. The Legislature did not revoke or suspend the 1990 rate case plan but only directed the Commission to "review and revise, as appropriate," the earlier plan [citation to statute omitted]. (D.03-10-072, slip op., pp. 7-8.)

Thus, ORA's first argument fails.

Compliance with Rate Case Plan Filing Requirements

Second, ORA argues that this GRC application does not meet the requirements of § 454.2 because SoCalWater has not complied with the filing deadlines in the current rate case plan. ORA states that SoCalWater should have filed its GRC application in January 2001, not in 2003. ORA contends:

² The current water rate case plan was approved on August 8, 1990, in *Re Schedule for Processing Rate Case Applications by Water Utilities*, D.90-08-045, 37 Cal PUC 2d 175 (1990).

³ D.03-10-072, slip op. (October 30, 2003) [regarding California Water Service Company].

By failing to comply with the current GRC filing schedule SoCalWater effectively and substantially increased the number (and size) of the districts now presenting GRCs. This increase is at the root of the delays of which SoCalWater now complains. Thus, SoCalWater's late filed NOI and application undermine any claim it may have had that the Commission bears responsibility for its not receiving a decision in a timely fashion. (ORA Response, p. 4.)

SoCalWater's reply includes the declaration of Roland S. Tanner, the utility's Manager of Regulatory Affairs (ORA's response includes no supporting declaration). Tanner's declaration claims that the effect of the specific terms of the settlement of SoCalWater's last Region II GRC (the 1998 GRC, with test years 1999, 2000 and attrition year 2001), included deferral of the subsequent Region II GRC from 2001 to 2003. Tanner states:

As part of the settlement in the 1998 GRC, SCWS agreed to implement an Infrastructure Replacement Program (IRP) by installing the upgraded mains and beginning construction of the wells. The Commission authorized two Infrastructure Replacement and CPI rate increases: a 3.60% increase in October 2002 (D.02-10-044), and a 4.6% increase in November 2002 (W-4372). As a result, SCWS did not need to apply for another rate increase for Region II until 2003. (Tanner declaration, paragraph 2.)

SoCalWater makes the better-supported argument. Review of the 1998 Region II GRC decision⁴ clearly establishes Commission approval of the IRP and the 2002 and 2003 rate increases, which were implemented, respectively, through the subsequent decision and the advice letter Tanner cites. Though the Commission does not state expressly that the 2002 and 2003 rate increases defer the GRC filing schedule for SoCalWater, operationally the authorization of

⁴ D.98-12-070, slip op., as modified by D.02-10-044, slip op.

sizeable, future rate increases made it unnecessary for the utility to file a 2001 GRC application. ORA does not indicate that it sought such an application and it does not support its allegation that by filing in 2003, rather than 2001, SoCalWater has caused ORA's staffing difficulties. Moreover, as for the issue of ORA's general resource problems, the Commission has been clear that resource problems of this kind do not render § 455.2 inapplicable.⁵

For these reasons, ORA's second argument also fails.

IT IS RULED that:

1. The December 23, 2003, Motion for Interim Rate Relief filed by Southern California Water Company (SoCalWater) is granted.
2. SoCalWater may file, by advice letter, a tariff implementing interim rates for Region II, commencing January 1, 2004 and subject to refund.

Dated February 3, 2004, at San Francisco, California.

/s/ JEAN VIETH
Jean Vieth
Administrative Law Judge

⁵ Both D.03-10-072, *supra*, and D.03-12-007, slip op. (December 4, 2003.) [concerning San Jose Water Company] make this determination.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion for Interim Rate Relief on all parties of record in this proceeding or their attorneys of record.

Dated February 3, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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